

## REMARKS

Reconsideration of the application as amended is respectfully requested.

Claims 1-5 are pending in this application.

Claims 1-5 stand rejected.

Claims 1-5 are cancelled herein.

New claims 6 through 11 are presented herein.

## CLAIM REJECTIONS

The Office Action mailed by Examiner Robert P Swiatek on April 6, 2004 has been received as reviewed by the applicant. Reconsideration of the application as amended is respectfully requested.

The present invention is based on a simple concept. It is advantageous to present a device to pick up trash that includes a trash receptacle unit that is disposable and replaceable by an easily manufactured replacement unit, such as the one presented by the invention herein. As one purpose of this invention is for use to clean up dog excrement, such a disposable replacement unit makes the task of walking the dog less arduous. Moreover, it is advantageous to present such a unit that includes a segregating device (flap) in the disposable receptacle so that the receptacle can be utilized a second or subsequent times before being discarded.

The Examiner has rejected the claims as originally presented. The basis of the Examiner's rejection was alternately 35 U.S.C. 102(b) with respect to Claim 1, or 35 U.S.C. 103 with respect to Claims 1-5. The prior art cited by the Examiner as a basis for

the rejection based on anticipation or obviousness was Ross (U.S. Patent No. 4,368,907) or Arceo (U.S. Patent Publication 2002/0185874 A1).

The applicant herein has cancelled the claims as originally written and presents new claims 6 through 11. The new claims presented herein are not anticipated nor rendered obvious by the prior art cited by the Examiner, nor any of the prior art of record.

Attention is drawn to the applicant new claim 8 which is the broadest of the new independent claims presented herein. It is clear that none of the prior art contains all of the elements presented in this claim. Furthermore, the applicant believes that it would not be obvious to one skilled in the art to modify the prior art to arrive at the subject matter claimed in this claim. Specifically, the invention as claimed in new independent Claim 8 contains, among other limitations, the following elements:

- a. a refuse container which is deformable and disposable.
- b. an elongated handle comprising an inner and an outer shaft.
- c. at least one segregating flap within the refuse container.

An examination of the prior art cited by the Examiner and of all prior art known to the applicant indicates that none of the prior art fairly includes all of these elements. Furthermore, none of the prior art suggests this combination and as such it would not be obvious to one skilled in the art to arrive at this combination of elements.

Specifically, none of the prior art includes a refuse retaining box that is deformable and disposable. Furthermore, none of the prior art fairly combines this with a segregating flap within the container so that a user can reuse the container prior to disposal. Finally, none of the prior art utilized these elements in combination with a two-

part handle comprising an inner and an outer shaft for transmitting downward pressure to the deformable box.

By way of comparison between the invention claimed and disclosed herein, and the Ross prior art patent, the following is noted.

1. Ross's housing structure for waste (waste container) is part of the whole device and is not disposable. The invention claimed herein is a separate part of the device and is disposable.

2. Ross's door opening and closing mechanism of the waste container is operated by mechanical arms. The present invention opens by deformation of the side walls under pressure and closes by its own elastic nature when pressure is released. Ross requires gates to open and close; the present invention does not.

3. Ross's closure member (gate or flap) operates by gravity and stops by a stopper (pin). In the present invention, the flap or flaps close and stop by pressing against each other wherever animal waste touches or drops the flaps. Ross's housing gets soiled and needs to be cleaned; in the present invention the flaps are disposed with the container. This element is claimed in new Claim 8.

By way of comparison between the invention claimed and disclosed herein, and the Arceo prior art patent, the following is noted.

1. Arceo uses a separate waste collection bag tied to the scooper box which is part of the device and is not disposable, and since animal waste to be collected must travel through the scooper box in order to reach the collection bag, the box will get soiled and needs to be cleaned. The present invention is a one-piece container and is disposable and does not need cleaning at all.

2. Arceo needs a gate to open and close the scooper. The present invention does not need this additional part.

3. Arceo's inner shaft (rod) needs an expansion coil (spring) to close the scooper. In the present invention the inner rod will be pushed back automatically by the elastic nature of the side walls.

#### INFORMATION DISCLOSURE STATEMENT

The Examiner has made a notation in the Office Action that the references to Wilson, Baran and Simon listed in the IDS have not been checked. The correct document numbers are as follows:

Wilson (Design Patent) D 281,108

Baran (Design Patent) D 384,865

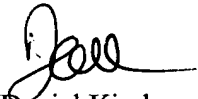
Simon (Design Patent) D 368,003

Conclusion

For the foregoing reasons, the Applicant submits that the invention disclosed and claimed in the present application is not fairly taught or suggested by any of the prior art of record, either taken alone or in combination. Therefore, allowance of the present application is in order, and is requested.

Should there be any issues or questions that can be advanced by a phone call, the Examiner is cordially invited to contact the undersigned attorney at the telephone number below.

Respectfully submitted,



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